

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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U.S. COMMODITY FUTURES TRADING  
COMMISSION,

Plaintiff,

Civil Action No. 12 CV 8791 (CM)

-against-

ANSWER

ERIC MONCADA,  
BES CAPITAL LLC, and  
SERDIKA LLC,

ECF Case

Defendants.

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Defendant Eric Moncada, by his attorneys, Litman, Asche & Gioiella, LLP, as  
and for his Answer to the Complaint, states the following:

1. Defendant Moncada denies each and every allegation contained in the  
Complaint except as expressly admitted or otherwise specifically responded to below:

Paragraphs

Response

1-5	Denies the allegations contained in these paragraphs.
6	Denies knowledge and information sufficient to form a belief as to the truth of the allegations of this paragraph.
7-9	Denies the allegations contained in these paragraphs.
10	Admits the allegations contained in this paragraph.
11	Denies the allegations contained in this paragraph.
12	Admits the allegations contained in this paragraph.
13	Admits the allegations contained in this paragraph upon information and belief.

<u>Paragraphs</u>	<u>Response</u>
14	Admits the allegations contained in this paragraph upon information and belief, except deny knowledge and information sufficient to form a belief as to when Serdika ceased trading.
15	Denies the allegations contained in this paragraph, except admits that Moncada was a member of BES and traded on behalf of Serdika and BES in 2009 and is a floor broker registered with the plaintiff.
16-18	Admits the allegations contained in these paragraphs.
19	Admits the allegations contained in this paragraph upon information and belief, except deny knowledge and information sufficient to form a belief as to the average open interest and average volume for CVOT #2 Soft Red Winter Wheat Futures (“Wheat Futures”).
20	Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in this paragraph, except admits that Wheat Futures contracts are quoted in cents per bushel.
21	Admits the allegations contained in this paragraph.
22	Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in this paragraph.
23-27	Admits the allegations contained in these paragraphs.
28-33	Denies the allegations contained in this paragraph.
34	Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in this paragraph.
35	Denies, except denies knowledge and information sufficient to form a belief as to the lengths of time between placing orders and cancelling them.
36	Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in this paragraph.
37-39	Denies the allegations of these paragraphs.
40, 41	Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in these paragraphs.

<u>Paragraphs</u>	<u>Response</u>
42	Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in this paragraph, except denies that there were several orders “ahead” of the defendants at the best bid price.
43	Denies the allegations contained in this paragraph.
44	Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in this paragraph.
45	Denies the allegations contained in this paragraph.
46	Denies the allegations contained in this paragraph, except denies knowledge and information sufficient to form a belief as to the details of the defendant’s trades.
47, 48	Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in these paragraphs.
49	Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in this paragraph, except denies that there were “already several orders ahead of Moncada’s at the best offer price”, and denies that Moncada sought to minimize the risk that the large lot orders had been filled.
50	Denies the allegations contained in this paragraph, except denies knowledge and information sufficient to form a belief as to the details and timing of defendant’s trades.
51	Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in this paragraph.
52	Denies the allegations contained in this paragraph.
53-57	Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in these paragraphs.
58	Admits the allegations contained in this paragraph.
59	Denies the allegations contained in this paragraph.
60	Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in this paragraph.
61, 62	Denies the allegations contained in these paragraphs.

<u>Paragraphs</u>	<u>Response</u>
63, 64	Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in these paragraphs.
65	Denies the allegations contained in this paragraph.
66	Denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in this paragraph.
67-70	Denies the allegations contained in these paragraphs.
71	Defendant repeats and realleges each and every admission and denial set forth in response to Paragraphs 1-62 of this Answer with the same force and effect as though set forth at length herein.
72-75	Denies the allegations contained in these paragraphs.
76	Defendant repeats and realleges each and every admission and denial set forth in response to Paragraphs 1-62 of this Answer with the same force and effect as though set forth at length herein.
77-80	Denies the allegations contained in these paragraphs.
81	Defendant repeats and realleges each and every admission and denial set forth in response to Paragraphs 1-62 of this Answer with the same force and effect as though set forth at length herein.
82-85	Denies the allegations contained in these paragraphs.
86	Defendant repeats and realleges each and every admission and denial set forth in response to Paragraphs 1-62 of this Answer with the same force and effect as though set forth at length herein.
87-90	Denies the allegations contained in these paragraphs.
91	Defendant repeats and realleges each and every admission and denial set forth in response to Paragraphs 1-62 of this Answer with the same force and effect as though set forth at length herein.
92-95	Denies the allegations contained in these paragraphs.
96	Defendant repeats and realleges each and every admission and denial set forth in response to Paragraphs 1-62 of this Answer with the same force and effect as though set forth at length herein.
97-100	Denies the allegations contained in these paragraphs.

<u>Paragraphs</u>	<u>Response</u>
101	Defendant repeats and realleges each and every admission and denial set forth in response to Paragraphs 1-62 of this Answer with the same force and effect as though set forth at length herein.
102-105	Denies the allegations contained in these paragraphs.
106	Defendant repeats and realleges each and every admission and denial set forth in response to Paragraphs 1-62 of this Answer with the same force and effect as though set forth at length herein.
107-110	Denies the allegations contained in these paragraphs.
111	Defendant repeats and realleges each and every admission and denial set forth in response to Paragraphs 1-70 of this Answer with the same force and effect as though set forth at length herein.
112-117	Denies the allegations contained in these paragraphs.
118	Defendant repeats and realleges each and every admission and denial set forth in response to Paragraphs 1-70 of this Answer with the same force and effect as though set forth at length herein.
119-123	Denies the allegations contained in these paragraphs.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

2. The Complaint fails to set forth with particularity the circumstances constituting the alleged fraud with respect to each of the counts in the Complaint.

Dated: New York, New York  
March 20, 2013

Yours, etc.,

Litman, Asche & Gioiella, LLP  
Attorneys for Defendant Eric Moncada

By: /s/ Richard M. Asche  
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